IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 39962 of 2003(G)

PETITIONER:

P.P.ABDUL SATHAR, S/O. ABDUL HAJI,
R.P.NO.70178, ABUDABI, U.A.E., REP. BY P.A.HOLDER
AYISHA SATHAR, W/O. ABDUL SATHAR,FATHIMA HOUSE,
P.O. KANHIRODE, KOODALI, KANNUR.

BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS:
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1. **PUTHUKUDI ARADHA, W/O. GOPALAN,**
RADHA NIVAS, ELAYAVOOR, P.O. VARAM, KANNUR-6.

2. **PUTHUKUDI ASHOKAN, AGED 40 YEARS,**
-DO-.

3. **PUTHUKUDI JALAKSHMI, AGED 36 YEARS,**
-DO-.

4. **PUTHUKUDI JAGADEESHAN, AGED 34 YEARS,**
-DO-.

5. **PUTHUKUDI SMITHA, AGED 30 YEARS,**
-DO-.

6. **PUTHUKUDI SAJITHA, AGED 28 YEARS,**
-DO-.

7. **PUTHUKUDI ARUNKUMAR, AGED 28 YEARS,**
-DO-.

R1 TO R7 BY ADV. SRI.P.M.PAREETH
SRI.PRASAD M.K.
SMT.MARY ANNE BASTIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBIT:

EXT.P1: COPY OF THE COMMON ORDER IN I.A.2808/03, 2809/03 AND 2628/03 IN O.S.182/03 ON THE FILE OF THE MUNSIFF COURT, KANNUR, DATED 4.11.2003.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 39962 OF 2003

Dated this the 2nd day of July, 2007

JUDGMENT

Ext.P1, the common order dismissing three interim applications filed by the defendant one for reception of the written statement filed and another for enlarging the time for filing the written statement and the third one for setting aside the ex-parte order is under challenge under Article 227 of the Constitution.

Heard Mr.M.K.Sumod, learned counsel for the petitioner and Sri.P.M.Pareeth, learned counsel for respondents 1 to 7. My attention was drawn to the judgment of the Supreme Court in **Kailah v. Nanhku** [2005 (2) KLT 623] by Mr.Sumod who submits that the issue is now covered in favour of the petitioner. Mr.Pareed submits that what the Supreme Court has stated is not that all written statements which are filed beyond the period of 90 days should be received on file. The court has a discretion to receive the written statement filed belatedly the said discretion is to be exercised on a judicious manner. Having considered the rival submissions, I am of the view that the applications filed by the petitioner ought to be allowed, but only on conditions. Accordingly setting aside impugned order I allow Ia Nos.2808 of 2003, 2809 of 2003 and 2628 of 2003 in OS No.182 of 2003 on condition that the petitioner

pays to the respondents either directly or through their counsel in this court a sum of Rs.1,000/- within three weeks from today. If payment is not made as directed above, the impugned order will stand confirmed and if payment is made as above, the same will stand set aside and the order allowing the I.A. Will become operative in which case the court below will receive the written statement on file and formulate issues on the basis of the contentions raised therein and dispose of the suit in accordance with law.

PIUS C. KURIAKOSE, JUDGE

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